



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P (MD) No.3956 of 2018
and
W.M.P (MD) No.4101 of 2018

Najima Begum .. Petitioner

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildhar,
Madurai West Taluk,
Madurai.

3.The Authorized Officer,
Tamil Nadu Mercantile Bank Ltd.,
Chinthamani Branch,
No.248-B, Rekha Towers,
Kamarajar Salai, Madurai - 09.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice dated 19.02.2018 passed by the second respondent in Na.Ka.0779/2018/A and quash the same and consequently direct the third respondent to regularize the petitioner's loan account by providing her sufficient time to repay the loan amount to the third respondent.

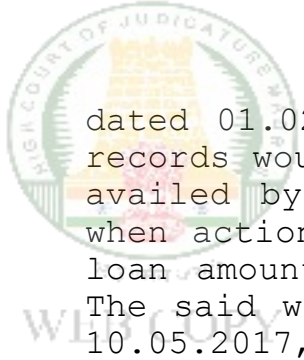
For Petitioner : Mr.S.M.A.Jinnah
For Respondents 1 and 2 : Mr.A.K.Baskarapandian,
Special Government Pleader.
For Respondent No.3 : Mr.N.Dilipkumar

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.S.M.A.Jinnah, learned counsel appearing for the petitioner, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2 and Mr.N.Dilipkumar, learned counsel, who accepts notice on behalf of the third respondent.

2.The petitioner has filed this writ petition challenging the consequential order passed by the Tahsildar, Madurai West Taluk, pursuant to an order passed by the District Collector, Madurai,



dated 01.02.2018, under Section 14 of SARFAESI Act. A perusal of records would show that the petitioner is the guarantor for the loan availed by her son. The petitioner's son approached this Court, when action was initiated against him for recovery of the defaulted loan amount, by filing a writ petition in W.P(MD)No.8988 of 2017. The said writ petition was dismissed as withdrawn, by order, dated 10.05.2017, so as to enable him, to work out the remedy, as per law. The petitioner's son filed S.A.No.24 of 2017 before the Debts Recovery Tribunal, Madurai, challenging the action initiated under Section 19(2) of RDDBFI Act and prayed for an order of stay. The Debts Recovery Tribunal, Madurai granted an order of interim stay, subject to the condition that the petitioner's son pays a sum of Rs.9,26,000/- on or before 15.03.2017 as first instalment and Rs.9,26,000/- on or before 15.04.2017 as second instalment. The petitioner's son failed to comply with the said direction. Therefore, the bank proceeded with the matter further. Subsequently, the petitioner herein, who is the mother of the borrower/guarantor approached this Court and filed a writ petition in W.P(MD)No.13406 of 2017. The Court, while entertaining the writ petition, placed on record the undertaking affidavit filed by the petitioner's mother, agreeing to pay Rs.2,00,000/- on or before 28.09.2017 and the said condition was complied with. Consequently, the writ petition was disposed of, by order, dated 04.09.2017, restraining the respondent bank from proceeding with the impugned sale auction, till 03.10.2017 and directed that if the loan liability is not settled on or before the said date, it is open to the respondent bank to proceed in the manner known to law. The petitioner's son did not comply with the condition and the loan amount was not settled. Consequently, the bank proceeded in accordance with law and the property, which was offered as a security, was brought for auction and sale certificate, dated 25.01.2018, was issued and subsequently, the bank obtained an order under Section 14 of the SARFAESI Act from the District Collector, which is sought to be implemented by the impugned order.

3. In the light of the above factual position, we hold that the present attempt of the petitioner is to drag on the proceedings and challenge to the impugned proceedings has to necessarily fail on account of the successive non-compliances by the petitioner and her son. Therefore, we are not inclined to entertain the writ petition and accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

1. The District Collector,
Madurai District, Madurai.



2.The Tahsildhar,
Madurai West Taluk,
Madurai.

+1cc to Special Government Pleader, SR.No. 51638
+1cc to M/S.S.M.A.Jinnah, Advocate SR.No. 51478
+1cc to M/S.N.Dilipkumar, Advocate SR.No. 51154

ORDER MADE IN
W.P (MD) No.3956 of 2018
and
W.M.P (MD) No.4101 of 2018
26.02.2018

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JM/SKN RSK/SAR 2/01.03.2018/3P/6C